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Advancement of Women

Violence against women migrant workers

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* A/52/150 and Corr.1.

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I. Introduction

1. In its resolution 51/65 of 12 December 1996 on violence against women migrant workers, the General Assembly, recalling all previous resolutions on violence against women migrant workers that had been adopted by the Assembly, the Commission on the Status of Women and the Commission on Human Rights, affirmed the pronouncements of various recent world conferences with respect to women migrant workers, noted the holding of the expert group meeting on violence against women migrant workers held at Manila in May 1996, and took note of resolution 1996/12 of the Subcommission on Prevention of Discrimination and Protection of Minorities concerning, *inter alia*, women migrant workers.

2. The General Assembly made a number of recommendations in resolution 51/65 for action by Member States and the United Nations system, and invited Member States, as well as relevant international organizations, to provide their views and comments to the Secretary-General on the issue of indicators as a basis for addressing the situation of women migrant workers, as contained in the report of the Secretary-General (A/51/325). The Assembly also invited the Administrative Committee on Coordination, within its mandate, to examine how to improve coordination within the United Nations system on the question of violence against women migrant workers. It furthermore requested the Secretary-General to report to the General Assembly at its fifty-second session on the implementation of the resolution, including the reports received from all authorities and bodies in the United Nations system, Member States, intergovernmental organizations and other concerned bodies, with "due regard for possible measures to improve reporting procedure".

3. In 1998, the Commission on the Status of Women will review four critical areas of concern identified in the Beijing Platform for Action. Among these critical areas to be reviewed is violence against women. Attention is drawn to the definition of violence against women contained in article 1 of the Declaration on the Elimination of Violence against Women (General Assembly resolution 48/104): "[A]ny act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm and suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

4. The present report describes the steps that have been taken to implement resolution 51/65, based on reports received from Member States,[1] authorities and bodies within the United Nations system,[2] and intergovernmental organizations. Also contained in the report are views and comments on the issue of indicators as a basis for addressing the situation of women migrant workers, as contained in the report of the Secretary-General (A/51/325).

II. Measures introduced by Member States to address violence against migrant women workers

5. As of 11 September 1997, 22 Member States had responded to the Secretary-General's request for information on the implementation of General Assembly resolution 51/65.

A. Legal measures

1. International obligations

6. Several Member States noted that they were States parties to international treaties regulating the treatment of workers generally and migrant workers in particular. For example, one Member State[3] noted that it was a party to International Labour Organization (ILO) Convention No. 100, providing for equal pay for equal work. Others[4] indicated that they were States parties to the Slavery Convention, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Conventions on the abolition of forced or obligatory labour and on the abolition of forced labour, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

2. Constitutional provisions

7. A number of countries[5] noted that their national constitutions contained a non-discrimination clause prohibiting, *inter alia*, discrimination on the basis of sex. Others noted that rights guaranteed in their national Constitutions were guaranteed to everyone in the country, including permanent residents and temporary foreign workers, including with respect to the right to work,[6] although certain exceptions might apply with respect to electoral and other rights.[7]

3. Measures to address violence against women

8. A number of countries[8] indicated that the legal provisions applicable to violence against women generally applied not only to violence against nationals, but also to women migrant workers. Such provisions sometimes addressed psychological, as well as physical or sexual violence.[9] A number of respondents indicated that they had,[10] or were preparing,[11] laws to protect workers against sexual harassment in the workplace. The existence of a national plan to prevent, punish and eradicate all forms of violence against women was also reported by one country.[12]

9. Several countries reported on the introduction of specific laws to address violence within the family to which women migrant workers, as well as nationals, have access. One Member State reported that its Protection against Violence Within the Family Act, which entered into force on 1 May 1997, enabled the police to order the offender to leave and remain away from the home and provided for increased cooperation between the police and the courts and for the creation of specific protection schemes for victims of violence.[13] It also noted that an amendment to its Civil Code allowed victims of sexual crimes to claim damages. Similar measures were reported by other States, some of which had also introduced comprehensive police and social work training.[14]

4. Labour provisions

10. Several countries[15] reported that their domestic labour provisions prohibited discrimination on the basis of sex and that no distinction was made between male and female workers. A number of respondents[16] indicated that no distinction was drawn between national and foreign workers insofar as the protection afforded by labour laws was concerned. Others[17] indicated that specific provisions in the national labour codes prohibited placing migrant workers in worse working conditions than those of nationals. Some[18] also noted that national laws provided specific protection for employees from acts of violence by employers or fellow employees. Several respondents indicated that special provisions had been enacted with respect to specific categories of migrant workers. One State[19] reported that legislative amendments had been made to allow for "proper control over foreign entertainers", while another[20] noted that women migrant workers in the private sector were provided with the same rights as male migrant workers, as well as additional benefits, such as maternity leave and child protection. Another State[21] drew attention to its Plan of Equal Opportunities for Women Workers which, although not yet implemented, contained specific recommendations relating to migrant women workers, while another[22] noted its National Programme on the Protection of Migrants, which although not addressing women exclusively, did elaborate measures for the protection of migrant workers generally.

5. Regulation of employment agencies

11. One Member State[23] indicated that legislation governed the organization of agencies for the recruitment of domestic workers, while the same Member State also reported that it had introduced regulations for employment agencies and set out rules governing the issue of permits to agencies for the employment of servants.[24] It had also established a Department of Domestic Service to study cases involving the procurement of migrant workers and to ensure that domestic service procurement agencies had the correct information and data on would-be migrant workers. A special department to investigate cases involving domestic employees had also been established with the aim of resolving disputes between employer and employee mutually or through the judicial process or in cooperation with the employee's embassy or consulate. Another Member State[25] reported that there was a process to denounce "employment agencies" that promise women and girls domestic employment, but placed them in prostitution.

12. Another Member State,[26] the nationals of which are extensively involved in labour migration, as well as migration for the purposes of marriage, has implemented strict qualifications for the regulation of agencies and employers of their nationals who work as performing artists. These establish a set of qualifications for legitimate performing artists, pre-qualification of principals/sponsors, pre-qualification of performance venues and the establishment of welfare and monitoring centres to strengthen protection for artists. All parties to the contract of employment of migrant workers must declare the real terms and conditions with respect to the workers employment.[27] This Member State has also established a watch list or blacklist of foreign principals and employers who are prohibited, because of default in contractual obligations or grave misconduct, from participating in the overseas employment programme.

13. The same Member State has also introduced stringent administrative measures to govern the selection of destination countries based on the laws of the host country with regard to foreign workers and the existence of multilateral and bilateral agreements.[28] It may also recommend the suspension of deployment or restriction of markets or skills based on the situation of peace and order in the host country and the advice of its Department of

Foreign Affairs. It has also emphasized those occupations that are non-vulnerable and aims to phase out occupations that expose women to abuse and exploitation.

6. Migration regulation

14. One Member State[29] reported on legal measures introduced to address illegal trafficking in migrants, which includes provisions in the Federal Law against Organized Crime, setting out sanctions for those who organize illegal immigration. This Member State also has introduced legal regulations for immigration procedures and punishes those who endanger the health, well-being or lives of migrants.[30] Another State[31] described legislation providing sanctions relating to illegal employment by foreigners and drew attention to legislation criminalizing illegal trafficking in migrants and the promotion of clandestine immigration.

B. Other measures

1. Counselling and welfare

15. One country[32] reported that counselling, with the assistance of interpreters, for foreigners on human rights issues was available through the Legal Affairs and District Legal Affairs Bureaux. Another[33] noted that the Minister of Labour and her technical advisers made annual visits to all sites where women migrant workers were employed.

16. Another country[34] reported that an Under-Secretary of State had been appointed to oversee the condition of the country's nationals who were employed abroad and had been given the specific mandate of entering into dialogue with countries receiving such nationals. The same country had also established a specific foundation which was charged with oversight of the welfare of nationals working abroad and their families. Another country[35] reported on the establishment and management of 21 workers resource centres attached to embassies and consulates in host countries. The centres offered workers counselling and legal services, conciliation of disputes and interpretation services during court hearings; procurement of medical and hospitalization services; information and orientation programmes for overseas workers and human resources development, including skills training and upgrading. The same country also reported that repatriation services for stranded, detained, maltreated and sick workers were implemented by the embassies/consulates of that country in collaboration with the overseas labour corps and the Office of Workers' Welfare and Administration. Another Member State[36] reported that its embassies abroad were charged with oversight of the welfare of migrant workers and kept a register of cases. The same Member State also noted that the Church, through its pastoral activities with respect to migrants, was also involved in the welfare of migrant workers. Another Member State[37] drew attention to its programme to promote the interests of migrant women workers and the Forum for the Social Integration of Immigrants which had been established to facilitate consultation and dialogue between public administration, civil society and migrants' associations. In addition, the Member State indicated that aid, including subsidies, was available for measures to facilitate the integration of immigrants and to address emergency situations.

17. Another Member State[38] drew attention to the Memorandum relating to consular protection of Mexican and American citizens signed on 7 May 1996, which ensured that any persons detained by migration authorities were informed of their rights and legal options, including their right to contact their consular representative, and facilitated communication between consular representatives and citizens. The Memorandum provides that both Governments will attempt to ensure that consular representatives are informed of cases that involve the detention of minors and pregnant women. Bilateral arrangements entered into between this Member State and others also govern repatriation, where the Member State seeks to ensure that repatriation does not bring about the separation of families and is accompanied by measures to ensure that women receive non-discriminatory treatment and are not subjected to conditions which endanger their physical well being.

18. The same Member State[39] noted its National Programme of Migratory Supervision, which oversees activities and procedures of inspection and migratory controls, and establishes protection groups for migrants with a mandate to combat criminality and to protect the human rights of migrants in frontier areas. It noted that the protection groups coordinated with both public and private social assistance bodies. The Member State also drew attention to the fact that its National Institute for Migration, the National Commission on Human Rights and the United Nations High Commissioner for Refugees had authorized civil servants whose work involved migration to give assistance to migrant women workers who were the victims of violent acts. A Directorate for the Protection of Migrants had been established by the Institute of Migration to address the issue.

2. Education

19. Several countries reported on education measures for potential migrant women workers. One country[40] had introduced a mandatory module on migration in the secondary level curriculum in order to equip entrants into the labour force with information for decisions with respect to work and work-site preferences. The same country had also put in place nationwide pre-employment seminars, organized in conjunction with civil society, for the grass roots, as well as pre-departure orientation seminars for women in vulnerable occupations such as domestic service and entertainment. The seminars aimed to inform participants about the culture and mores of the host country. In addition, age and literacy requirements had been established for women migrant workers in vulnerable occupations, with literacy requirements, including in the use of English, having been established for domestic helpers and female entertainers.

20. The same country noted that its President had declared 1997 as Anti Migrant Trafficking Year and that concerned government agencies, as well as the national Airline Operators Council had signed a memorandum of agreement to enhance the cooperation of all agencies in the prevention of the existence and/or proliferation of illegal recruiters providing escort services at international airports and seaports.

21. Another Member State[41] drew attention to a "Guide to the Human Rights of Migrants", a collaborative venture of the National Institute of Migration and the National Commission on Human Rights, while still another Member State[42] noted that it planned to publish a guide on the rights of and resources available to migrant women workers in Arabic, English and Spanish, the languages most commonly used by migrant women workers.

C. Reintegration

22. One country reported on measures to ensure the reintegration of migrant women workers on their return. It indicated that such programmes were offered by the Workers Resource Centres in the host country and provided training courses and information on employment and livelihood opportunities in the workers' country of origin. In addition, skills training and upgrading courses were available in the country of origin, as were employment placement and referral services and livelihood loan referrals and skills-for-employment scholarship baccalaureate courses.

D. Bilateral and regional measures

23. Some countries had concluded bilateral agreements with other countries relating to the rights of foreign workers. For example, the Russian Federation had concluded bilateral agreements with China, Viet Nam and Germany on principles governing the assignment and hiring of foreign workers. Morocco had bilateral agreements with countries, including Belgium, France and Germany, which aim to ensure equal treatment for Moroccan workers in those countries. Mexico had concluded a number of bilateral arrangements with respect to migrant workers, including the Combined Declaration on Migration by the Presidents of the United States of America and Mexico, adopted on 6 May 1997. The Declaration expressed the commitment of both countries to the protection of the rights of migrants and the promotion of effective prosecution of complaints by migrants. Paraguay reported on discussions with Argentina with regard to preparation of a Convention on Migration.

24. One Member State[43] noted the conclusions of the Second Regional Conference on Migration, which was held on 13 and 14 March 1997 in Panama. The Conference adopted an Action Plan containing a specific section on the human rights of migrants touching on the human rights of migrant women workers, and established a Regional Consulting Group on Migration and a Coordinating Commission to coordinate follow-up to the Action Plan and exchange of information.

III. Views and comments on the issue of indicators

25. In paragraph 9 of resolution 51/65 the General Assembly invited Member States, as well as relevant international organizations, to provide their views and comments to the Secretary-General on the issue of indicators as a basis for addressing the situation of women migrant workers, as set forth in the report of the Secretary-General (A/51/325, annex, paras. 44 and 45).

26. Five Member States[44] provided comments with regard to the issue of indicators.

27. One country[45] drew attention to paragraph 36 of the annex to the Secretary-General's report which contains the conclusions and recommendations of the expert group meeting held at Manila, noting that discrepancies in data collection on violence against women migrant workers could not be resolved without addressing the larger issue of discrepancies in all migration statistics and stressing the

importance of implementation of the recent work of the 1997 United Nations Statistical Commission contained in the Draft Revised Recommendations on Statistics of International Migration.[46] Reference was made to Economic and Social Council resolution 1997/2 of 18 July 1997 on international migration and development, adopted on the recommendation of the Commission on Population and Development, in which the Council urged the Statistics and Population divisions of the United Nations Secretariat, along with the regional commissions and other relevant United Nations and intergovernmental organizations and Governments providing technical assistance in statistics, to collaborate in the dissemination of the recommendations referred to above and to provide, at the request of Governments, technical assistance in implementing them. It was suggested that implementation of those recommendations would go a long way towards overcoming the discrepancies in migration statistics.

28. It was suggested that "inadequate legal sanctions against violence against women, or inadequate enforcement of existing legislation" could be added to the list of indicators of vulnerability contained in paragraph 45 of the annex to the Secretary-General's report.

29. Another Member State[47] expressed its strong support for the elaboration of a set of indicators that could be used as a basis for addressing the situation of violence against women migrant workers to enable Governments to clearly assess and determine the exact nature, duration and degree of violence experienced by women migrant workers in the sending and receiving countries and in transit. It was considered that the use of indicators would ultimately make it possible for both sending and receiving countries to discuss, agree on and implement policies, strategies and measures towards bilateral, regional and multilateral cooperation and collaboration. It was also pointed out that a great number of women who had migrated abroad in search of work had done so through betrothal or marriage to citizens or nationals of the host country. That method of entry into the host country had made them vulnerable to exploitation and abuse, both at home and at work. The concerns of immigrant fiancées/spouses should thus be reflected in the indicators.

30. The same Member State supported the determination of indicators on situations that rendered women migrant workers vulnerable to violence and suggested revisions to the set of indicators drawn up by the United Nations expert group meeting[48] and reflected in the Secretary-General's report (ibid.).

31. Another Member State[49] agreed with the importance of the participation of all government organs that maintained registers on migrant populations and the human rights of women and minors in collating the information related to violence and the vulnerability and general characteristics of migrant women workers. The Member State noted that its National Commission on Human Rights undertook various monitoring efforts in that regard, in collaboration with human rights institutions working outside its borders, so that concrete data and statistics could be available to be used in the detection of the most important violations of the human rights of migrant workers seeking to cross its borders. It has established coordination with human rights commissions and information exchange mechanisms between embassies and consulates in the region and non-governmental organizations in order to collect concrete data and statistics with respect to migration. A study has been initiated to analyse demographic and socio-economic indicators on women in areas from which migration is common.

32. Another Member State[50] considered that the issue of indicators on violence against women migrant workers was complex and sensitive. It noted that before the issue of indicators could be considered there was a need to agree on the definition of violence against women migrant workers. In that regard, some countries regarded any form of violation of women migrant workers' rights as violence, which stretched the normal definition of violence to include economic exploitation, breach of contract, etc., and would lead to exaggeration. In the view of the Member State "violence" against women migrant workers should only cover physical violence. The issue of improving employment conditions should not be confused with violence. To address broad areas concerning women migrant workers as violence could dilute efforts to tackle the real issues.

33. It was also noted by the same Member State that, given the diversity of the domestic conditions of each receiving country, it was impossible to come up with an international norm to address the issue of violence against women migrant workers. It was suggested that in the absence of such a norm the list of indicators was open to interpretation and this could lead to problems of compatibility and measurability. In addition, as many incidences of the situation of violence against women migrant workers were qualitative in nature, they did not lend themselves to quantitative measurements.

34. The Member State indicated that it was important to adopt a balanced approach to the situation of women migrant workers and that there was a need to look at the question of indicators from a broader perspective. For example, a set of indicators on the overall situation of women migrant workers that included other indicators could be used apart from those

on violence against women migrant workers. While there was no doubt that cases of victimization of women migrant workers existed, positive indicators should also be included to determine the benefits accruing from migration. Positive indicators should include: (a) reasons women migrant workers extended or renewed their employment; (b) their motivation for staying in the countries of destination after completing one term; (c) net benefits, as perceived by women migrant workers; and (d) remittances received by the countries of origin.

35. The Member State also proposed that if the General Assembly considered it necessary to study the question of indicators further, it should establish an open-ended working group to study the question, reviewing the recommendations made by the United Nations Expert Group Meeting held at Manila.

36. On the issue of indicators, another Member State[51] noted the comments in paragraph 42 of the annex to the Secretary-General's report, in particular that the issue of violence against women migrant workers should be seen in a wider context; that responsibility should be borne by sending and receiving countries; that overall net benefits accruing to many women migrant workers should be acknowledged; and that there was a need to acknowledge a differentiated approach to the issue, given the different domestic conditions prevailing in different countries. It was suggested that women migrant workers would gain greater protection and rights if the actions recommended in the annex to the Secretary-General's report were implemented. If the laws of every country were required to accord special status to women migrant workers, such status could result in receiving countries curbing or controlling the flow of foreign labour into their countries.

37. The Member State also noted that the Secretary-General's report categorized violence into economic exploitation, social/psychological violence, physical/sexual violence and violence resulting from operation of the legal system and pointed out that non-payment or delay in the payment of wages and/or violation of wages agreed to under contract had been highlighted as a common type of economic exploitation in receiving countries. Instances constituting breach of contract could be remedied through the operation of the Member State's domestic legal system and it was extremely rare for foreign workers to be working in the absence of a contract. Foreign workers should have the same access as the local population to the protection of the domestic Penal Code. In the view of the Member State, women migrant workers had access to representatives of their countries through their respective foreign missions and the level of assistance and/or support offered by those missions was a matter for the mission concerned.

IV. Actions taken by organizations of the United Nations system on the situation of women migrant workers

38. Since the fifty-first session of the General Assembly, a number of intergovernmental bodies and organizations of the United Nations system have undertaken further work on the subject. Their actions are reviewed below.

A. Commission on the Status of Women

39. At its forty-first session, the Commission on the Status of Women adopted resolution 41/4 on violence against women migrant workers. In addition to reiterating part of the text of General Assembly resolution 51/65 and noting the convening of the United Nations expert group meeting on violence against women migrant workers held at Manila in May 1996, the Commission decided to remain seized of the matter and requested the Secretary-General to take into account and to reflect in a "thematic report" to the Commission on the Status of Women at its forty-second session the various major findings and recommendations from all reports of the Secretary-General submitted to the General Assembly on the issue of violence against women migrant workers, in order for the Commission to make recommendations on the issue.[52]

B. Commission on Human Rights

40. At its fifty-third session, the Commission on Human Rights adopted resolution 1997/13 of 3 April 1997 entitled "Violence against women migrant workers", in which it, *inter alia*, invited the States concerned to consider adopting appropriate legal measures against intermediaries who deliberately encouraged the clandestine movement of workers and exploited women migrant workers, and encouraged States to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which as at 16 July 1997, had 17 States parties. The Commission also requested the United Nations High Commissioner for Human Rights, the Centre for Human Rights and the Special Rapporteur on violence against women, as well as all relevant bodies and programmes in the

United Nations system, when addressing the issue of violence against women to give particular attention to the issue of violence perpetrated against women migrant workers. It furthermore invited the regional commissions and the regional offices of the International Labour Organization to examine ways and means, within their mandates, of dealing with concerns pertaining to women migrant workers and requested the Secretary-General to submit a comprehensive report to the Commission at its fifty-fourth session in 1998 on the implementation of the resolution.

1. Special Rapporteur on violence against women

41. In her report to the Commission on Human Rights at its fifty-third session,[53] the Special Rapporteur on violence against women focused on the issue of violence against women in the community, and within that broad topic addressed violence against women migrant workers. The Special Rapporteur affirmed that, owing to their double marginalization as women and as migrants, women migrant workers might easily find themselves in situations in which they were vulnerable to violence and abuse, especially since women migrant workers dominated the informal labour market of most countries, working as domestic, industrial or agricultural labourers, or within the service industry. She noted that many conditions which stimulated migration by women for work might also lead to women becoming victims of trafficking, so that trafficked women and voluntary women migrants might find themselves in comparable situations of exploitation, violence and abuse.

42. The Special Rapporteur stated that the unregulated and unprotected nature of informal labour translated into minimal or no legal protection for migrant women and this was compounded by women's social isolation. Mechanisms of support and assistance for migrant women in violent situations existed in some countries of destination, but were often inaccessible to women migrants because of their lack of physical mobility, language skills or knowledge that those organizations existed. Local embassies did not have the facilities or programmes to meet the needs of women migrant workers who were forced to seek protection from violence at the hands of their employer. The Special Rapporteur noted that the pervasive situation of violence against migrant women had stimulated some countries of origin to implement protective policies, many of which, however, might actually harm women migrant workers and increase their vulnerability to exploitation. In that regard, she noted that as a result of one country's ban on solo foreign labour migration by women, recruitment agents arranged sham marriages with men who escorted the women to their employers outside the country.[54]

43. In her recommendations to the Commission on Human Rights, the Special Rapporteur requested, countries of origin and countries of destination to establish migrant worker desks at their embassies/consulates. Countries of destination should implement orientation programmes for migrant workers which should be available immediately upon arrival. Countries of destination were also called upon to prosecute abusive employers and to ensure that shelters and counselling services were available for women migrant workers who were victims of violence.

2. Subcommission on Prevention of Discrimination and Protection of Minorities

44. At its forty-eighth session in 1996, the Subcommission adopted resolution 1996/10 on migrant workers. It also adopted resolution 1996/12 on the report of the working group on contemporary forms of slavery which, *inter alia* dealt with migrant workers. The position of migrant workers was also discussed during the Subcommission's forty-ninth session under agenda item 3, "Comprehensive examination of thematic issues relating to the elimination of racial discrimination".[55]

3. Working Group on Contemporary Forms of Slavery

45. The Working Group on Contemporary Forms of Slavery of the Subcommission on Prevention of Discrimination and Protection of Minorities continued to discuss the issue of migrant workers and at its twenty-second session. In examining the issue, the Working Group paid special attention to the question of domestic workers, in particular young girls, and decided, on the recommendation of several non-governmental organizations, to give priority to the consideration of the question of domestic and migrant workers at its next session.[56]

C. Commission on Crime Prevention and Criminal Justice

46. At its sixth session, in 1997, the Commission on Crime Prevention and Criminal Justice adopted draft resolution III on crime prevention and criminal justice measures to eliminate violence against women,[57] in which it, *inter alia*, adopted the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice as a model of guidelines to be used by Governments in their efforts to address, within the criminal justice system, the various manifestations of violence against women. Although draft

resolution III and the Model Strategies do not address the issue of violence against women migrant workers specifically, the measures suggested are likely to enhance efforts to protect the rights of women migrant workers.

D. Inter-Agency Committee on Women and Gender Equality

47. The Inter-Agency Committee on Women and Gender Equality, established in 1996, has been entrusted with supporting the Administrative Committee on Coordination in system-wide coordination in the implementation of the Beijing Platform for Action and with respect to gender mainstreaming.

48. A system-wide medium-term plan for the advancement of women 1996-2001 has been elaborated.[58] The mid-term review of the plan will be conducted by the Commission on the Status of Women and the Economic and Social Council in 1998. In the preparation of the report, the question of violence against women, including against women migrant workers, will be reviewed. The Inter-Agency Committee is also seized of the issue of violence against women and coordination of efforts of United Nations bodies and agencies in this regard.

V. Conclusions

49. Responses from Member States suggest that the question of violence against women migrant workers is an issue which is just emerging. Although responses do suggest that efforts have been applied to address discrimination against women and to introduce measures to confront violence against women generally in several Member States, few States have adopted measures to combat the specific issue of violence against women migrant workers. Again, although measures have been introduced to ameliorate the situation of migrant workers generally, few have been specifically directed at women migrant workers. It is clear that more extensive information and data are required on the situation of women migrant workers so that concrete strategies can be introduced. In this regard, it is important to note that the analysis of national action plans by the Commission on the Status of Women will broaden the information base against which strategies can be developed. It is clear, however, from responses from Governments that the issue of violence against migrant women workers is emerging as a serious concern, and as further data become available the formulation of appropriate measures will be required.

Notes

[1] Austria, Bahrain, Brunei Darussalam, Canada, China, Croatia, Cyprus, Estonia, Jamaica, Japan, Kuwait, Malta, Mexico, Morocco, Paraguay, Philippines, Russian Federation, Singapore, South Africa, Spain, Syrian Arab Republic and United Arab Emirates.

[2] Economic Commission for Africa (ECA); Economic Commission for Latin America and the Caribbean (ECLAC); United Nations Educational, Scientific and Cultural Organization (UNESCO); United Nations High Commissioner for Human Rights/Centre for Human Rights; World Health Organization (WHO).

[3] United Arab Emirates.

[4] Morocco; the Syrian Arab Republic reported that it had ratified the Convention For the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, ILO Conventions No. 20 concerning forced labour and No. 105 concerning the abolition of forced labour; Kuwait indicated that it had acceded to the Slavery Convention, the Supplementary Convention on the abolition of slavery, ILO Conventions No. 105 concerning the abolition of forced labour and No. 111 concerning discrimination in respect of employment and occupation. In addition, it has ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.

[5] Croatia, Kuwait, Morocco, Russian Federation, Syrian Arab Republic.

[6] Spain, Constitution, article 13.

[7] Canadian Charter of Rights and Freedoms.

[8] Japan, Kuwait, Malta, Spain, Syrian Arab Republic.

[9] Japan, Penal Code, article 222.

[10] Article 56 of the Penal Code of Kuwait provides that "any official or employer, and any person holding public office who acts harshly towards others on the basis of his position in such a manner as to impair their dignity or cause them physical suffering, shall be subject to imprisonment for a period of not exceeding three years and/or to a fine not exceeding 225 dinars"; Paraguay, Labour Code, reformed by Law 496 of 1995.

[11] Malta.

[12] Paraguay. This Member State also reported that it was in the process of reforming its Criminal Code to address specifically violence against women and children.

[13] Austria; similar provisions were reported on by the Russian Federation which noted the entry into force on 1 January 1997 of the new Criminal Code which significantly expands the protection available to women from acts of violence by modifying the definition of existing crimes and introducing improved procedures for the conduct of trials.

[14] Cyprus.

[15] Croatia, Syrian Arab Republic.

[16] Austria, Bahrain, Canada, Croatia, Mexico, Syrian Arab Republic.

[17] Russian Federation, article 5 of the Code of Labour Laws.

[18] Austria, Japan.

[19] Japan.

[20] United Arab Emirates, Rule No. 8 and Law No. 8 of 1973.

[21] Paraguay.

[22] Mexico.

[23] Kuwait, Decree Law No. 40 of 1992.

[24] Ordinance No. 40 of 1992 and Ministerial Decision No. 617.

[25] Paraguay.

[26] Philippines.

[27] Philippines, Full Disclosure Policy (Department Order No. 35, Series of 1996).

[28] Philippines, Selective Deployment of Filipino Women Workers (Department Order No. 32, Series of 1996).

[29] Mexico.

[30] Mexico, General Population Law, November 1996.

[31] Spain.

[32] Japan.

[33] Jamaica.

[34] Morocco.

[35] Philippines.

[36] Paraguay.

[37] Spain.

[38] Mexico.

[39] Mexico.

[40] The Philippines.

[41] Mexico.

[42] Spain.

[43] Mexico.

[44] Brunei Darussalam, Canada, Mexico, Philippines and Singapore.

[45] Canada.

[46] ST/ESA/STAT/SER.M/58/Rev.1.

[47] Philippines.

[48] Proposed revisions: to 44.1 (b) (receiving country): "Violation of wages agreed to in contract or payment of wages lower than stipulated in contract"; to 44.2 (b): "Deprivation of access to social network and social and religious facilities and support systems"; to 44.2 (d): "Deprivation of access to medical and health facilities and social services"; to 44.4 (a): "Unreasonable arrest, imprisonment, confinement or deportation"; to 44.4 (c): "Unlawful withholding of passports and other documentation by employers and recruiters"; to 45.1: "Where women are recruited for work and moved abroad without valid documentation and accurate information about the laws and policies of the country of destination"; to 45.4: "Where women are able to move abroad without adequate preparation which is in accord with government and/or international regulations and guidelines on preparation, which may also still need to be developed".

Proposed additions: new paras. 44.1 (c) and (d) (country of origin): "Difficulty of access to financial assistance services"; "Matchmaking services targeting rural/urban poor women seeking work overseas by (outlawed) mail order bride operators"; 44.1 (c), (d), (e), (f) and (g) (receiving country): "Absence of contract"; "Breach of contract, including changes in the type and nature of work required in the country of destination"; "Unlawful or forced substitution of contract"; "Discrimination in wages (vis-à-vis male workers, both local and foreign)"; "Appropriation by foreign spouse of migrant wife's employment earnings"; 44.2 (b) *bis*, and (f): "Enforced isolation, curtailment of freedom of movement and deprivation of contact with family in the country of origin"; "Absence of family reunification programmes in the receiving country (particularly in the case of migrant women workers married to foreign spouses)"; 44.3 (c) and (d): "Subjection to trafficking and forced prostitution"; "Physical or verbal abuse of members of the community in the host country"; 44.4 (c), (d) and (e): "Exclusion of women migrant workers in the protection and benefits otherwise afforded to male local and foreign workers"; "Absence of statutory benefits (i.e. education, health, etc.) to children of migrant women workers"; "Discriminatory laws governing the employment of migrant women who are married to the citizens of the host country"; 45.9 and 45.10: "Where women are promised jobs overseas upon marriage to foreign nationals"; "Where women are forced and/or coerced to work overseas or to marry foreign nationals by family members".

Proposed deletions: para 44.4 (b) and (d).

[49] Mexico.

[50] Singapore.

[51] Brunei Darussalam.

[52] See *Official Records of the Economic and Social Council, 1997, Supplement No. 7* (E/1997/27), chap. I.C.

[53] E/CN.4/1997/47, paras. 121–142.

[54] Ibid., para. 140.

[55] E/CN.4/Sub.2/1997/1/Rev.1.

[56] E/CN.4/Sub.2/1997/13, paras. 54–58.

[57] *Official Records of the Economic and Social Council, 1997, Supplement No. 10* (E/1997/30), chap. I.A.III.

[58] E/1997/16.

UNITED NATIONS **A**

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Fifty-second session
Item 105 of the provisional agenda*

CRIME PREVENTION AND CRIMINAL JUSTICE

Letter dated 16 September 1997 from the Permanent Representative of Austria to the United Nations addressed to the Secretary-General

I have the honour to transmit to you the draft of an international instrument against the smuggling of illegal migrants prepared by Austrian legal experts taking into account comments of various international organizations and legal experts of various countries.

The motives of this Austrian move are the following: the smuggling of illegal migrants, a particularly heinous form of transnational exploitation of individuals in distress, has considerably increased in recent times and poses a growing threat to the international community as a whole.

1. International cooperation in combating the smuggling of illegal migrants within the United Nations system is being promoted primarily by the Commission on Crime Prevention and Criminal Justice. The General Assembly requested the Commission to consider giving attention to the question of the smuggling of migrants at its sixth session in order to encourage international cooperation to address the problem within the framework of its mandate.

On the basis of information received by Member States, the Commission on Crime Prevention and Criminal Justice is in a position to consider "devising an effective approach that criminal justice systems might adopt to combat the illegal smuggling of migrants, for example, taking more compatible and better harmonized countermeasures, in terms of policy and practical operations, at the national, regional and international levels" (E/CN.15/1997/8, para. 44).

2. In their practical technical approach, the measures envisaged by the Commission will certainly further contribute to effectively combating the

* A/52/150 and Corr.1.

smuggling of illegal migrants. However, a legal analysis demonstrates the absence of an international instrument that would define the smuggling of illegal migrants as a transnational crime and would establish a treaty obligation for States to exercise their jurisdiction over persons committing and abetting such a crime or, as the case may be, providing for the extradition of the offender in response to a justified request by a concerned State and to cooperate in this exercise.

This legal lacuna under international law is increasingly perceived as an obstacle to the efforts of the international community to cope in an efficient manner with the phenomenon of smuggling of illegal migrants for criminal purposes. Therefore, the action to be undertaken under the aegis of the Commission urgently needs to be complemented by the elaboration of an appropriate international instrument ensuring that perpetrators as well as instigators and accomplices of this transnational crime will be effectively brought to justice.

3. The main features of such a legal instrument could be the following:

- Establishing the smuggling of illegal migrants as a transnational crime;

- Establishing an obligation for the contracting States to render the smuggling of illegal migrants punishable under their domestic law;

- Establishing an obligation for the contracting States to provide for their jurisdiction over the abetting, assisting or otherwise participating in acts of smuggling of illegal migrants for personal profit;

- Establishing the principle of aut dedere aut judicare;

- Establishing an obligation for the contracting States to provide mutual judicial assistance;

- Establishing provisions concerning the extradition of alleged offenders;

- Establishing general principles of penal law to be observed;

- Establishing a principle of penal sanctions against the perpetrators but not the victims.

4. Bearing in mind that the smuggling of illegal migrants constitutes a very special form of transnational crime, Austria is of the opinion that the problem should be dealt with in a special convention. Therefore, Austria invites all interested Member States to participate actively in the negotiations of this convention at the seventh session of the Commission.

I would be grateful if you would have the text of the draft instrument annexed hereto circulated as an official document of the General Assembly under item 105 of the provisional agenda.

Ernst SUCHARIPA
Ambassador
Permanent Representative of Austria
to the United Nations

ANNEX

Draft international convention against the smuggling of illegal migrants

The States Parties to the present Convention,

Concerned about the threat posed by the rapid development of smuggling of illegal migrants,

Concerned that an increasing number of migrants are being smuggled for reasons of prostitution and sexual exploitation,

Convinced that the smuggling of illegal migrants is often connected with particularly heinous forms of transnational exploitation of individuals in distress,

Convinced that only a global approach to the phenomenon of illegal migration including socio-economic measures can lead to an extinction of this crime,

Desiring to conclude an effective international convention directed specifically against the smuggling of illegal migrants as a first step,

Have agreed on the following:

Article 1

Any person who intentionally procures, for his or her profit, repeatedly and in an organized manner, the illegal entry of persons into another State of which such persons are not nationals or permanent residents, commits the offence of "smuggling of illegal migrants" within the meaning of the present Convention (hereinafter called "the offence").

Article 2

Any person who attempts, or who commits an act constituting participation as an accomplice in, any such smuggling, in an attempt to commit such smuggling, or organizing or ordering others to commit such smuggling likewise commits the offence.

Article 3

For the purpose of the present Convention:

(a) "Illegal entry" means the crossing of borders without fulfilling the necessary requirements for legal entry into the receiving State; and

(b) "Profit" means any financial or other material benefit deriving from the commission of the offence.

Article 4

1. Each State Party shall make the offences enumerated in articles 1 and 2 of the present Convention punishable by appropriate penalties which take into account their grave nature.

2. Each State Party shall take the necessary measures to enable the judiciary to deprive persons committing such offences of all profit derived therefrom.

3. A person whose illegal entry is procured or intended by such smuggling shall not become punishable on account of such smuggling.

Article 5

1. Each State Party shall take legislative measures to establish its jurisdiction over the offences mentioned in articles 1 and 2 of the present Convention in the following cases:

(a) When the offence is committed in the territory of that State or on board a vessel or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the alleged offender is present in its territory and it does not extradite him or her.

2. For the purpose of this article, the illegal entry into the territory of another State Party shall be considered equal to the illegal entry into the territory of the State Party concerned.

3. The present Convention does not exclude any criminal jurisdiction exercised in accordance with domestic law.

4. If more than one State Party intends to resume jurisdiction over an alleged offender in accordance with this article, the States Parties concerned shall consider renouncing jurisdiction in order to render possible proceedings in the State Party most directly affected by the commission of the smuggling.

Article 6

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its domestic law to ensure his or her presence for the purpose of prosecution and extradition. Such measures shall be communicated without delay to:

(a) All States in which the offence was committed or that have been or should have been affected thereby or that have established their jurisdiction over the offence;

(b) The State of which the alleged offender is a national or, if he or she is a stateless person, in whose territory he or she permanently resides.

Article 7

The State Party in whose territory the alleged offender is present shall, if it does not extradite him or her, submit, without exception whatsoever and without undue delay, the case to its competent authorities, for the purpose of prosecution, through proceedings in accordance with domestic law.

Article 8

1. The offences shall be deemed to be included as extraditable offences in any extradition treaty between States Parties. The States Parties undertake to include the offences as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it shall consider the present Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. The States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences as extraditable offences between them, subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territory of the States required to establish their jurisdiction in accordance with paragraph 1 of article 4.

5. The States Parties, subject to their domestic legislation, shall consider simplifying extradition of consenting persons who waive formal extradition proceedings by allowing direct transmission of extradition requests between appropriate ministries and extraditing persons based only on warrants of arrest or judgements.

Article 9

1. The offences shall not be considered political offences for the purpose of the present Convention.

2. Extradition shall not be granted if the requested Party has substantial grounds for believing that a request for extradition has been made for the purpose of prosecuting or punishing a person on account of his or her race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.

Article 10

Any person regarding whom proceedings are being carried out in connection with any of the offences shall be guaranteed fair treatment at all stages of the proceedings.

Article 11

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences, including the supply of all evidence at their disposal necessary for their proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

Article 12

1. For the purpose of examining the progress made by the States Parties in achieving the realization of the obligations undertaken in the present Convention, the States Parties will provide periodic reports to the Commission on Crime Prevention and Criminal Justice.

2. The States Parties will provide such reports within two years after the entry into force of the Convention for the State Party concerned, and thereafter every five years.

Article 13

The provisions of the present Convention shall be without prejudice to the obligations of States Parties under the Convention relating to the Status of Refugees.

Article 14

1. The present Convention is open for signature to all States until ... at United Nations Headquarters in New York.

2. The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Convention is open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 15

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twentieth instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the present Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of the instrument of ratification or accession.

Article 16

1. Any State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 17

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

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GENERAL ASSEMBLY
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Agenda item 43
THE SITUATION IN AFGHANISTAN
AND ITS IMPLICATIONS FOR
INTERNATIONAL PEACE AND
SECURITY

SECURITY COUNCIL
Fifty-second year

Report of the Secretary-General

I. INTRODUCTION

1. The present report is submitted pursuant to paragraph 19 of General Assembly resolution 51/195 B of 17 December 1996, in which the Assembly requested the Secretary-General to report to it every three months during its fifty-first session on the progress of the United Nations Special Mission to Afghanistan (UNSMA). The report, which covers the third three-month period following the submission on 16 June 1997 of the second progress report (A/51/929-S/1997/482), is also submitted in response to the request of the Security Council for regular information on the main developments in Afghanistan.

II. RECENT DEVELOPMENTS IN AFGHANISTAN

Military situation

2. The military confrontation between the Taliban and the Northern Alliance continued on all fronts during the reporting period, with the front lines relatively static until 20 July when Commander Ahmad Shah Massoud of the Northern Alliance launched a major attack and captured Charikar and Bagram airbase north of Kabul. This offensive continued until Massoud's forces reached to within 20 to 25 kilometres north of Kabul. The city came within range of rocket and artillery attacks. Taliban counter-offensives and additional military thrusts by Massoud's forces resulted in little change on the ground. Both sides used tanks, heavy artillery, rockets and aerial bombardment during these assaults, with total casualties numbering between 500 and 1,000 fighters. There were also numerous casualties among civilians.

3. In the central region, sporadic fighting took place between the Taliban and forces of the Hezb-i-Wahdat. Some 1,000 Taliban troops, trapped at Sorkh Pars between Massoud and Wahdat forces, managed to escape on foot, leaving behind their heavy weapons. In the west, fighting occurred in the Morghab river area in Badghis Province but with little change in front-line positions. Herat City was relatively calm. In the north-east, Kunduz City, captured by the Taliban in May, remained under their control, as well as much of the remainder of the province and the northern half of Baghlan Province. In early September 1997, forces loyal to Commander Massoud captured the city of Khanabad east of Kunduz and lay siege to the Taliban-held Kunduz airport. In eastern Afghanistan, anti-Taliban forces resorted to hit-and-run tactics, with small-scale attacks in the provinces of Laghman, Kunar and Nangarhar.

4. Mazar-i-Sharif was quiet except for an exchange of small arms fire on 21 August among troops nominally under the control of the Uzbek leader, General Abdul Malik. Calm was quickly restored. However, the situation quickly deteriorated when fighting erupted on 8 September in the city of Khulm (old name Tashkurgan), about 50 km to the east of Mazar. The confrontation started when one of the Northern Alliance's generals attempted to disarm a local commander, who declared himself and his troops loyal to the Taliban. The Taliban forces took advantage of the situation, joined the rebellious field commander and briefly took control of Mazar-i-Sharif airport and reached the outskirts of the city. These developments prompted chaos and looting in Mazar. Local offices of United Nations programmes and agencies operating in the city were also looted. None of the 14 international staff members was injured. Forces of Hezb-i-Wahdat and those loyal to General Malik recaptured the airport on 9 September and pushed the Taliban approximately 40 km east of Mazar. The situation became even more complicated, with General Rashid Dostum's return to Mazar on 12 September from exile in Turkey ostensibly to reclaim from General Malik his position as commander of the Afghan Uzbeks. Many of the armed units of the National Islamic Movement of Afghanistan (NIMA) reportedly declared their loyalty to General Dostum. The overall situation in the area remains volatile.

Political situation

5. While fighting continued between opposing Afghan forces, the political situation in Afghanistan during the period under review remained basically unchanged. The Taliban faction, from its headquarters in Kandahar, continued to control the capital of Kabul and the predominantly Pushtun-populated regions of the country, while the Northern Alliance, comprising principally the Uzbek, Tajik and Hazara populations, controlled their respective areas from Mazar-i-Sharif, Taluqan and Bamyan. The de facto division of the country, largely along ethnic lines, continued to be a troubling aspect of the situation.

6. The six constituent parties of the Northern Alliance continued their efforts to form a more coherent political grouping under the name "United Islamic and National Front for the Salvation of Afghanistan" (UNIFSA). The Front's new government, announced in mid-August, received a setback on 21 August when its new Prime Minister, Abdul Rahim Ghaffoorzai, died in a plane crash at Bamyan airport.

7. Rejecting the Front's claim to be the legal government of Afghanistan, the Taliban continued efforts to gain international recognition through the dispatch of delegations to Japan, the Republic of Korea, China and Thailand. In support of their position, the Taliban stated that the people residing in areas under their control were living in peace and safety. However, the continued factional fighting north of Kabul and elsewhere resulted in an increase in the number of internally displaced persons, many of whom had been forcibly removed from their homes and in some cases arrested merely for suspected sympathy with the anti-Taliban forces. The reality remained that Afghanistan was deadlocked in civil war, and its people bereft of effective government.

8. Foreign military support, in particular the resupply of weapons and ammunition to the two sides, continued unabated during the period under review. During the July/August fighting north of Kabul, witnesses reported that on some days as many as three or four transport aircraft were unloading their cargoes of arms and ammunition at Mazar-i-Sharif airport. There were also reliable eyewitness reports of truck convoys moving cargoes of arms and ammunition into Afghanistan during the month of August. The supply of war matériel, along with fuel and other logistical support, to all the factions only served to prolong the fighting and to vitiate United Nations attempts to mediate an end to the conflict.

Humanitarian situation

9. The humanitarian situation in Afghanistan remained serious. The International Committee of the Red Cross (ICRC) reported in August that the number of direct victims of the conflict had risen sharply since the beginning of the year. Fighting in the north of Kabul, for example, had resulted in a total of 200,000 people displaced. Furthermore, ICRC also observed that the death rate among war casualties in districts north of the capital was alarmingly high, with one out of every two to three casualties resulting in death owing to lack of appropriate care. A joint mission of the Food and Agriculture Organization of the United Nations (FAO) and the World Food Programme (WFP) estimated that although the cereal harvest for 1997 was expected to be 18 per cent higher than the 1996 harvest of 3.1 million metric tons, emergency food aid was nevertheless required to meet the needs of some 1.75 million people.

10. A survey of landmine problems revealed that the situation was worse than previously thought. New information indicated that nearly 777 km^2 have been contaminated by mines, instead of 550 km^2, as assessed previously. Of this, 322 km^2 were in residential, commercial, agricultural and other areas classified as "high priority", and required urgent removal. However, the Mine Action Programme was faced with a severe lack of funding and urgently required US$ 4 million to maintain its essential activities.

11. Some 50 representatives of the United Nations, non-governmental organizations, donors, the ICRC and the International Federation of Red Cross and Red Crescent Societies (IFRC) participated in a meeting on 2 July in Islamabad to review the implementation of the 1997 Consolidated Inter-Agency Appeal for Assistance to Afghanistan. As of 3 September, total pledges and contributions against the Appeal were $41 million, representing 31 per cent of

the total requirement of $133 million. Mr. James Speth, Administrator of the United Nations Development Programme, visited Kandahar on 2 September. He visited two United Nations-supported community-based projects, met with representatives of United Nations agencies in Afghanistan and had a meeting with representatives of the Taliban.

12. With respect to gender issues, I sent a letter to all members of the Administrative Committee on Coordination in June, requesting their cooperation in the implementation of the policies and measures adopted by the Executive Committee on Humanitarian Affairs to promote the adherence of Afghan authorities to international legal instruments on the elimination of discrimination against women and girls. Ms. Angela King, my Special Adviser on gender issues, chaired the meetings of the Ad Hoc Inter-Agency Group on Gender Issues in Afghanistan.

13. With the permission of the Uzbek authorities, essential commodities were transported in late July from Termez to the northern Afghanistan city of Hairaton by barges. WFP brought in almost 2,000 tons of wheat; ICRC, 3,000 tons of wheat flour; and the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA), 10,000 litres of diesel. In Mazar-i-Sharif, humanitarian operations were temporarily suspended in September owing to increased fighting in and around the city.

III. ACTIVITIES OF THE SPECIAL MISSION

14. Despite prolonged hostilities during the summer months, the Special Mission continued its contacts with the warring parties in an effort to engage them in political dialogue. In meetings with UNSMA, both the Taliban and their Northern Alliance opponents claimed a commitment to a negotiated settlement. However, their deeds ran contrary to the positions stated to UNSMA and revealed a desire to gain the upper hand over their adversaries through military conquest. Mission Head Mr. Norbert Holl held consultations on the Afghan situation from 18 to 27 June in Tashkent, Moscow, Paris, Bonn and Rome, meeting with Foreign Ministry and other officials and with former King Zahir Shah. Following his return to UNSMA in early July, Mr. Holl undertook a shuttle with the Afghan parties, beginning on 10 July with the Northern Alliance and concluding on 7 August with the Taliban. The purpose was to explore the possibility of holding direct negotiations at a neutral location outside the region between one representative of each side under UNSMA's good offices. The idea was to begin a step-by-step approach to reach agreement first on a ceasefire and exchange of prisoners, then to foster broader talks aimed at national reconciliation and a durable political settlement.

15. Both sides agreed on the necessity for direct talks and neither rejected the UNSMA proposal. However, the Taliban's insistence that the Northern Alliance take certain "confidence-building measures", in particular the release of some or all of their prisoners, particularly their emissaries who had come to Mazar to negotiate, was flatly rejected by General Abdul Malik of the Northern Alliance. General Malik stated that it was "illogical" to release prisoners of war before a ceasefire was arranged. He also made his own demand for the demilitarization of Kabul. In a second round of talks, the Northern Alliance appeared ready to meet (preferably within the region, albeit not in Pakistan)

without preconditions. The Taliban, however, refused to drop their demand for prior POW release.

16. Parallel with Mr. Holl's negotiating effort, the Governments of both the Islamic Republic of Iran and Pakistan continued to have their own contacts in Afghanistan with the parties. The Government of Pakistan has attempted to promote an intra-Afghan dialogue under United Nations auspices. This effort so far has not led to tangible results.

17. Regarding the prisoner issue, a number of prisoners interviewed by UNSMA personnel in Maimana, the capital of Faryab Province in north-western Afghanistan, and in Bamyan freely admitted that they came from various areas in Pakistan but it was not possible to determine whether they had any ties with that country's military.

IV. APPOINTMENT OF SPECIAL ENVOY

18. In view of the continued conflict and human tragedy in Afghanistan and the stalemated efforts to involve all the parties concerned in constructive and viable political dialogue, on 29 July, I appointed Mr. Lakhdar Brahimi as my Special Envoy on a short mission to consult interested and relevant countries and parties, as well as the Organization of the Islamic Conference, and to present a comprehensive review of the United Nations peacemaking activities in Afghanistan. Mr. Brahimi started his mission on 15 August. After the completion of his mission, I will report to the General Assembly and Security Council accordingly.